

1-1 By: Huffman S.B. No. 569
1-2 (In the Senate - Filed February 1, 2019; February 21, 2019,
1-3 read first time and referred to Committee on Health & Human
1-4 Services; April 8, 2019, reported adversely, with favorable
1-5 Committee Substitute by the following vote: Yeas 9, Nays 0;
1-6 April 8, 2019, sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	<u>X</u>			
1-10	<u>X</u>			
1-11	<u>X</u>			
1-12	<u>X</u>			
1-13	<u>X</u>			
1-14	<u>X</u>			
1-15	<u>X</u>			
1-16	<u>X</u>			
1-17	<u>X</u>			

1-18 COMMITTEE SUBSTITUTE FOR S.B. No. 569 By: Perry

1-19 A BILL TO BE ENTITLED
1-20 AN ACT

1-21 relating to the regulation of listed family homes.
1-22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
1-23 SECTION 1. Section 42.042, Human Resources Code, is amended
1-24 by adding Subsection (d-1) and amending Subsection (g) to read as
1-25 follows:
1-26 (d-1) The executive commissioner by rule shall adopt
1-27 minimum standards for listed family homes. The minimum standards
1-28 must:
1-29 (1) promote the health, safety, and welfare of
1-30 children attending a listed family home;
1-31 (2) promote safe, comfortable, and healthy listed
1-32 family homes for children;
1-33 (3) ensure adequate supervision of children by
1-34 capable, qualified, and healthy personnel; and
1-35 (4) ensure medication is administered in accordance
1-36 with Section 42.065.
1-37 (g) In promulgating minimum standards the executive
1-38 commissioner may recognize and treat differently the types of
1-39 services provided by the following:
1-40 (1) listed family homes;
1-41 (2) registered family homes;
1-42 (3) ~~(2)~~ child-care facilities, including general
1-43 residential operations, cottage home operations, specialized
1-44 child-care homes, group day-care homes, and day-care centers;
1-45 (4) ~~(3)~~ child-placing agencies;
1-46 (5) ~~(4)~~ agency foster homes;
1-47 (6) ~~(5)~~ continuum-of-care residential operations;
1-48 (7) ~~(6)~~ before-school or after-school programs; and
1-49 (8) ~~(7)~~ school-age programs.
1-50 SECTION 2. Sections 42.044(a) and (c), Human Resources
1-51 Code, are amended to read as follows:
1-52 (a) An authorized representative of the commission
1-53 ~~department~~ may visit a facility regulated under this chapter or a
1-54 registered or listed family home during operating hours to
1-55 investigate, inspect, and evaluate.
1-56 (c) The commission ~~department~~ must investigate a facility
1-57 regulated under this chapter or a registered or listed family home
1-58 when a complaint is received by the commission. The representative
1-59 of the commission ~~department~~ must notify the operator of a
1-60 registered or listed family home or the director or authorized

2-1 representative of a regulated facility when a complaint is being
 2-2 investigated and report in writing the results of the investigation
 2-3 to the family home's operator or to the regulated facility's
 2-4 director or the director's authorized representative.

2-5 SECTION 3. Section 42.04425, Human Resources Code, is
 2-6 amended by adding Subsection (d) to read as follows:

2-7 (d) The commission shall provide with the inspection data
 2-8 described by Subsection (c) a minimum of five years of
 2-9 investigative data for listed family homes regulated under this
 2-10 chapter to enhance consumer choice with respect to those homes.

2-11 SECTION 4. Section 42.0446, Human Resources Code, is
 2-12 amended to read as follows:

2-13 Sec. 42.0446. REMOVAL OF CERTAIN INVESTIGATION INFORMATION
 2-14 FROM INTERNET WEBSITE. The executive commissioner shall adopt
 2-15 rules providing a procedure by which the commission [~~department~~]
 2-16 removes from the commission's [~~department's~~] Internet website
 2-17 information on [~~with respect to~~] a child-care facility or
 2-18 registered or listed family home that relates to an anonymous
 2-19 complaint alleging [~~that~~] the facility or family home failed to
 2-20 comply with the commission's [~~department's~~] minimum standards if,
 2-21 at the conclusion of an investigation, the commission [~~department~~]
 2-22 determines [~~that~~] the complaint is false or lacks factual
 2-23 foundation.

2-24 SECTION 5. Section 42.0447(a), Human Resources Code, is
 2-25 amended to read as follows:

2-26 (a) A person commits an offense if the person knowingly or
 2-27 intentionally files a complaint alleging that a child-care facility
 2-28 or registered or listed family home failed to comply with the
 2-29 commission's [~~department's~~] minimum standards and the person knows
 2-30 the allegation is false or lacks factual foundation.

2-31 SECTION 6. Section 42.046, Human Resources Code, is amended
 2-32 by adding Subsection (f) to read as follows:

2-33 (f) An applicant for a listing to operate a family home
 2-34 shall submit with the application proof of the applicant's
 2-35 successful completion of safe sleep training in accordance with
 2-36 commission rules.

2-37 SECTION 7. Subchapter C, Chapter 42, Human Resources Code,
 2-38 is amended by adding Section 42.0495 to read as follows:

2-39 Sec. 42.0495. LIABILITY INSURANCE REQUIRED FOR LISTED
 2-40 FAMILY HOMES. (a) A listed family home shall maintain liability
 2-41 insurance coverage in the amount of \$300,000 for each occurrence of
 2-42 negligence. An insurance policy or contract required under this
 2-43 section must cover injury to a child that occurs while the child is
 2-44 on the premises of or in the care of the listed family home.

2-45 (b) A listed family home shall annually file with the
 2-46 commission a certificate or other evidence of coverage from an
 2-47 insurance company demonstrating that the listed family home has an
 2-48 unexpired and uncanceled insurance policy or contract that meets
 2-49 the requirements of this section.

2-50 (c) If a listed family home is unable to secure a policy or
 2-51 contract required under this section for financial reasons or for
 2-52 lack of availability of an underwriter willing to issue a policy or
 2-53 contract or the home's policy or contract limits are exhausted, the
 2-54 home shall timely provide written notice to the parent or guardian
 2-55 of each child attending the home that the liability coverage is not
 2-56 provided.

2-57 (d) A listed family home described by Subsection (c) shall
 2-58 timely provide written notice to the commission that the home is
 2-59 unable to secure liability insurance and the reason the insurance
 2-60 could not be secured.

2-61 (e) If a listed family home complies with the notice
 2-62 requirements under this section, the commission may not assess an
 2-63 administrative penalty or suspend or revoke the family home's
 2-64 listing for violating Subsection (a). This subsection may not be
 2-65 construed to indemnify a family home for damages due to negligence.

2-66 SECTION 8. Sections 42.052(f) and (i), Human Resources
 2-67 Code, are amended to read as follows:

2-68 (f) To remain listed or registered with the commission
 2-69 [~~department~~], a family home must comply with the commission's

3-1 [~~department's~~] rules and standards[~~, if applicable,~~] and any
3-2 provision of this chapter that applies to a listed or registered
3-3 family home.

3-4 (i) The commission [~~department~~] shall provide to a listed
3-5 family home a copy of the listing. A listing must contain a
3-6 provision that states: "THIS HOME IS A LISTED FAMILY HOME. IT IS
3-7 NOT LICENSED OR REGISTERED WITH THE HEALTH AND HUMAN [~~DEPARTMENT OF~~
3-8 ~~FAMILY AND PROTECTIVE~~] SERVICES COMMISSION. A LISTED FAMILY HOME
3-9 HAS LIMITED MINIMUM STANDARDS AND IS NOT [~~IT HAS NOT BEEN INSPECTED~~
3-10 ~~AND WILL NOT BE~~] INSPECTED UNLESS A COMPLAINT IS FILED WITH THE
3-11 COMMISSION." The operator of a listed family home is not required
3-12 to display the listing in a prominent place at the home but shall
3-13 make the listing available for examination. [~~The executive~~
3-14 ~~commissioner by rule shall provide for a sufficient period to allow~~
3-15 ~~operators of family homes to comply with the listing requirement of~~
3-16 ~~this section.~~]

3-17 SECTION 9. Section 42.0522(b), Human Resources Code, is
3-18 amended to read as follows:

3-19 (b) A family home may not place a public advertisement that
3-20 uses the title "listed family home" or any variation of that phrase
3-21 unless the home is listed as provided by this chapter. Any public
3-22 advertisement for a listed family home that uses the title "listed
3-23 family home" must contain a provision in bold type stating: "THIS
3-24 HOME IS A LISTED FAMILY HOME. IT IS NOT LICENSED OR REGISTERED WITH
3-25 THE HEALTH AND HUMAN [~~DEPARTMENT OF FAMILY AND PROTECTIVE~~] SERVICES
3-26 COMMISSION. A LISTED FAMILY HOME HAS LIMITED MINIMUM STANDARDS AND
3-27 IS NOT [~~IT HAS NOT BEEN INSPECTED AND WILL NOT BE~~] INSPECTED UNLESS
3-28 A COMPLAINT IS FILED WITH THE COMMISSION."

3-29 SECTION 10. Section 42.0523, Human Resources Code, is
3-30 amended by adding Subsection (e) to read as follows:

3-31 (e) The following requirements do not apply to a family home
3-32 listed under this section:

- 3-33 (1) the minimum standards adopted under Section
3-34 42.042; and
- 3-35 (2) the liability insurance requirement under Section
3-36 42.0495.

3-37 SECTION 11. Sections 42.044(c-1) and (c-2), Human Resources
3-38 Code, are repealed.

3-39 SECTION 12. As soon as practicable after the effective date
3-40 of this Act, the executive commissioner of the Health and Human
3-41 Services Commission shall adopt rules necessary to implement
3-42 Chapter 42, Human Resources Code, as amended by this Act.

3-43 SECTION 13. The Health and Human Services Commission is
3-44 required to implement a provision of this Act only if the
3-45 legislature appropriates money specifically for that purpose. If
3-46 the legislature does not appropriate money specifically for that
3-47 purpose, the commission may, but is not required to, implement a
3-48 provision of this Act using other appropriations available for that
3-49 purpose.

3-50 SECTION 14. This Act takes effect September 1, 2019.

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